

# MINUTES

## OF THE REGULAR MEETING OF THE TOOELE COUNTY BOARD OF COMMISSIONERS HELD AUGUST 5, 2014

Chairman Clegg called the meeting to order at 7.00 p.m. The time, place and agenda of the meeting had been provided to the Tooele Transcript Bulletin and to each member of the governing body by delivering copies of the notice and agenda at least two days before to each of them.

1. PLEDGE OF ALLEGIANCE. The Pledge of Allegiance was offered by Blaine Gehring, County Planner.
2. ROLL CALL. The Clerk called the roll which showed Commissioners Bruce Clegg, Chairperson, Jerry Hurst and Shawn Milne present. Also present were Doug Hogan, Attorney and Debbie Smart, Chief Deputy Clerk. Marilyn Gillette, Clerk, was excused.
3. MINUTES. Commissioner Hurst moved to approve the minutes of the Commission Meeting held July 15, 2014, as amended. Commissioner Milne seconded the motion. All concurred.
4. CONSENT AGENDA. Commissioner Milne moved to approve the Consent Agenda. Commissioner Hurst seconded the motion. All concurred.

Tax Adjustments. A) Thomas Eleopolos, Parcel #06-008-0-0008. Double assessment: 8 acres was on both Tooele County and State Tax Commission property tax roll. Waive penalty and interest. This is a correction of a previous adjustment. Relief amount \$188.80; B) Nancy Gomez, Transaction #Z071UX. The day the registration packet came in the mail, the engine blew and the vehicle is inoperable. Relief amount (\$30.88); C) Blain B. Terry, Transaction #OH15118948. The bike was registered as an off-highway in error. It is a street bike. The State requested that we cancel the registration and re-register as a street bike. Relief amount (\$45.00); D) Pacific West LLC, Vin #1XKWDB9XX8R226276. Paid fees in Tooele but had to pay through SLIC because it is an apportioned plate. Relief amount (\$1,212.25).

Invoices. A) Warrants issued on July 9, 2014 in the amount of \$305,688.15, Direct Deposit #101384 - #101692, Check #6768 - #6774. Transmittal Checks in the amount of \$231,663.58, Check #6775 - #6787; B) Warrants issued July 10, 2014 in the amount of \$553,415.82, Check #145859 thru #145992; C) Warrants issued on July 17, 2014 in the amount of \$689,737.80, Check #145993 thru #146197; D) Warrants issued on July 23, 2014 in the amount of \$326,983.92, Direct Deposit #101692 - #102003, Check #6788 - #6794. Transmittal Checks in the amount of \$249,439.78, Check #6795 - #6808.

5. PRESENTATION OF 2013 EXTERNAL AUDIT BY ULRICH & ASSOCIATES.  
Mike Ulrich and Heather Christopherson, Ulrich & Associates, presented the results of their independent audit for 2013.

Tooele County, Utah  
Annual Financial Report  
Executive Summary - Audit report  
For the fiscal year ending December 31, 2013

This executive summary of audit report highlights is provided to aid in your review of the full audit report. Our goal with this summary is to provide the Commissioners with specific highlights of the

report without overwhelming you with 127 pages of detail. We have referenced selected pages for your review.

Independent Auditors' Report (p.5): "Unqualified Opinion" or clean opinion. (Reference pg. 6, Opinions)

Management's Discussion & Analysis (p.9-21): A narrative overview of the financial activities of the County. As part of this narrative, page 21 shows the progress made towards paying back amounts from the interfund borrowing related to the Deseret Peak fund.

Highlights from the financial statements and page reference in the report.

1 Page 29. The General fund unassigned fund balance is \$2,649,397. State law allows a minimum of 5% of actual revenues (approximately \$1,119,358) up to a maximum of 50% of actual revenues. The County is within state fund balance limits. Note the General fund cash balance is only \$158,000; so most all of the fund balance is in receivables to be collected by the end of February 2014.

2. Page 33. Third line from bottom "net change in fund balance". This shows the increase or (decrease) to fund balances for the year. All major funds increased the fund balance except for the Human Services fund. (Note: all other non-major funds except the Redevelopment Agency fund, increased their fund balance. see page 86.)

3. Page 35. Analysis of General fund budget and actual amounts. Overall, revenues were more than anticipated, expenditures were more than anticipated, and transfers out were more than budgeted. The net effect was the increase in the general fund balance was not as large as anticipated.

4. Page 40. Summary of the assets, liabilities and net position of the proprietary funds. Third line from bottom "unrestricted" represents the amounts available for future periods. The Deseret Peak fund is still in a negative position.

5. Middle of page 41 - Operating Income (Loss) - the Deseret Peak and Airport funds showed operating losses. Losses on this line indicate the amount by which directly related revenues fall short of covering the cost of providing the services. Note that federal & state grant money received and transfers are non operating revenue used to cover the expenses.

6. Pages 84 - 85 Combining Balance Sheet - These schedules take remaining special revenue funds, debt service funds, and capital projects funds that are considered non - major funds for report purposes and combine them into one column for the basic financial statements. Please note second line from bottom - fund balances during the year for all non - major funds. All are in a positive position.

7. Pages 86 - 87 - Combining Statement of Revenues, Expenditures & Changes in Fund Balance, for the same funds identified in #6 above. Third line from bottom - shows the increase or decrease in fund balance during the year.

In conclusion, the overall financial health of the County has improved. The changes made during the year, although hard, have had an overall positive impact on the financial position of the county. We are appreciative of the County employees and their cooperation during the audit.

Ulrich & Associates, PC

An Electronic copy of audit is attached at the end of the minutes.

6. **AUDIT COMMITTEE REPORT** Edwin Van Starn, Audit Committee, reviewed the duties of the Audit Committee. He also read the following recommendations from the Audit Committee:

RE: Audit Committee Recommendations

Tooele County Commissioners:

We have reviewed the Tooele County Financial Statements with auditor's report,

reviewed Ulrich & Associates' management letter, have met with Mike Ulrich of Ulrich & Associates, PC, and discussed the findings as an audit committee and as an audit committee we make the following recommendations.

1. Monetary and human resources need to be allocated to the CTS system to ensure that it is providing the proper reports. It is important that this be completed so that the Treasurer's office can properly reconcile and ensure that the funds have been allocated to the appropriate entities.
2. It is imperative that all funds and accounts are reconciled monthly to ensure that accurate financial information is provided to the Commissioners and entities timely. Monetary and human resources need to be dispatched to see that this is completed.
3. Monetary resources need to be allocated to ensure that the County has a competent individual, such as a county financial manager, to ensure that all reconciliations are being properly completed, that the day-to-day accounting of the County is accurate, and that all other items laid out in the Auditor's management letter are properly followed up with. It is important that the Commissioners receive accurate financial information on a monthly and quarterly basis and not just at the end of the year. Such a person should help to ensure that the Commissioners are receiving this information.
4. The County needs to put in place a Whistleblower policy and a policy that assures the protection of County employees from reprisal for reporting in good faith. The Whistleblower policy should be easy to find on the County website. See <http://auditor.utah.gov/hotline/>.

This program should be overseen by the Commission and Clerk/Auditor. The Audit Committee should be used in a limited scope to help ensure that the issues are being addressed timely and to receive reports as to the findings of the investigations of each claim regarding financial issues.

5. The County should seek to mitigate the control deficiencies identified in the major Federal Works Programs, Audits and State Legal Compliance Audit Reports. Assigning the appropriate party the responsibility of correcting the deficiencies by properly monitoring the sub-recipient to assure proper adherence to the required laws, regulations, grants and contracts and holding this body accountable to direct the issue as soon as possible.

Respectfully,  
John R. Adams, Chairman  
Tooele County Audit Committee

7. **BUDGET ADVISORY BOARD RECOMMENDATIONS.** Toby Lee, Budget Advisory Board read the following recommendations from that board.

Commissioners:

Please communicate the following recommendations regarding internal audits to the County Commission. These recommendations were unanimously adopted by the Budget Advisory Committee.

1. The Budget Advisory Board recommends that all County departments receive auditing on a two-year cycle.
2. The Budget Advisory Board recommends that the internal audit process be defined in County ordinance.
3. The Budget Advisory Board recommends that the internal audit process include a departmental review of adherence to relevant county ordinances and applicable state statute.
4. The Budget Advisory Board recommends that the internal audit process include a review of departmental policies and procedures, and determinations as to whether or not these are adequate to ensure effective and efficient operation of the department.

5. The Budget Advisory Board recommends that the internal audit process include a review of regular employee training in relevant policies and procedures.

6. The Budget Advisory Board recommends that adequate resources be appropriated by the Commission to facilitate the completion of a broad scope of duties in the internal audit.

As a Board, we strongly believe that providing direction for the internal audit process will be best accomplished by the Commission's adoption of an ordinance with specific direction and requirements.

These recommendations are intended to extend the internal audit process beyond the usual review of fiscal accounting and reporting.

Thank you,

Larry Shumway,  
Chair, Budget Advisory Board

8. **SOCIAL SECURITY BLOCK GRANT FOR FISCAL YEAR 2015.** Auditor Jensen reviewed this grant for \$163,479. It is an increase of \$53,913 from the State and \$13,478 for the County match. These funds go to the Boys & Girls Club, Utah Legal Services, Valley Behavior Health and Tooele County Aging. Commissioner Hurst moved to approve the Social Security Block Grant for Fiscal Year 2015. Commissioner Milne seconded the motion. All concurred.

9. **INVASIVE SPECIES MITIGATION (GSM) GRANT - SOUTH OQUIRRH CWA (COOPERATIVE WEED MANAGEMENT AREA) ALSO INVASIVE SPECIES MITIGATION (GSM) GRANTS - TOOELE COUNTY WEEK BOARD.** Jerry Caldwell, Weed Supervisor, stated this is a grant for weed control and restoration for \$19,700. Commissioner Milne asked that Mr. Caldwell also discuss item #9, another grant he has applied for. Jerry stated this grant will cover a band from Stockton Canyon through Hickman into Skull Valley. It is the third year of this grant. The grant is for \$18,000. Commissioner Milne moved to approve items #8 and #9 on the agenda. Commissioner Hurst seconded the motion. All concurred.

10. **DISPATCH CONTRACTS WITH NORTH TOOELE FIRE DEPARTMENT, BLM AND AMBULANCE SERVICES OF TOOELE, LLC.** Sheriff Park stated these are three standard dispatch forms which the County has used in the past. The only difference is in the name on the North Tooele Fire District, the word County has been taken out. Commissioner Milne moved to approve the contracts, with the clarification that the contract with the BLM is for \$5,462. Commissioner Hurst seconded the motion. All concurred.

11. **APPROVAL OF AWARD OF BID FOR THE PURCHASE OF 2014 FORD EXPLORER FROM PERFORMANCE FORD, TOOELE.** Recorder Houghton asked for approval on a bid for a 2014 Ford Explorer. They got bids from Ken Garff for the state contract price of \$27,436 and from Performance Automotive which gave a price for \$27,233. Jack Bell from Performance Automotive offered \$3,500 for two vehicles the Recorder's office has had that haven't been run in 2-3 years. The final cost will be \$23,733. Commissioner Milne moved to award the bid for the purchase of a 2014 Ford Explorer from Performance Ford in Tooele, not to exceed \$23,733. Commissioner Hurst seconded the motion. All concurred.

12. **AMENDMENT #8 TO CONTRACT DATED MARCH 30, 2010 BETWEEN JVIATION, INC. AND TOOELE COUNTY - WENDOVER AIRPORT AND AMENDMENT #9 TO CONTRACT DATED MARCH 30, 2010 BETWEEN JVIATION, INC. AND TOOELE COUNTY.** Amendment #8 is for equipment purchases (truck) at the Wendover Airport for a total amount of \$19,487. Commissioner Milne read a description of Amendment #9 from the Wendover Airport Director, Jim Petersen. This agreement is for engineering work on the airport for concrete and asphalt by the terminal and for additional security fencing. The contract amount is \$26,956. An FAA grant will pay 91% of the amount, with 9% coming from the Peppermill Casino Group. Commissioner Hurst moved to approve Amendments #8 and #9. Commissioner Clegg seconded the motion. All concurred.

13. **APPROVAL OF APPELLATE COUNSEL FOR INDIGENT DEFENSE.** Attorney Hogan discussed a bid proposal to handle one appeal case. Very few attorneys are qualified to handle this type of work, hence no additional bids. Commissioner Milne moved to approve the Appellate Counsel, Linda Jones, for Indigent Defense, not to exceed the total amount of \$7,000 (\$2,000 and \$5,000) fee indicated in the bid proposal. Commissioner Hurst seconded the motion. All concurred.
14. **RATIFICATION OF AMENDMENT #2 (2013 CDBG), CONTRACT #14-0109-HOMELESS PREVENTION/DOWN PAYMENT ASSISTANCE - TOOEELE COUNTY HOUSING AUTHORITY.** Commissioner Milne stated these amendments are for the administrative costs provided to Tooele County by the Wasatch Front Regional Council for the CDBG grants received by Tooele County, not to exceed \$150,000. Commissioner Milne moved to ratify Amendment #2 for Homeless Prevention/Down Payment Assistance. Commissioner Clegg seconded the motion. All concurred.
15. **DEPARTMENT OF WORKFORCE SERVICES HOUSING & COMMUNITY DEVELOPMENT DIVISION - 14.228 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) VENDOR #69883G AWARD #B-14-DC-49-0001.** Commissioner Milne moved to approve the Department of Workforce Services Housing & Community Development Division 14.228 Community Development Block Grant. Commissioner Hurst seconded the motion. All concurred.
16. **ORDINANCE 2014-09 - RENAMING DETENTION DRIVE TO RIVER STYX ROAD (THE ROAD RUNNING NORTH/SOUTH CONNECTING SOUTH MOUNTAIN ROAD TO THE TOOEELE COUNTY DETENTION CENTER).** Blaine Gehring, Planner, stated the Sheriff's Department has asked that Detention Drive be renamed to River Styx Road to avoid confusion. Commissioner Hurst moved to approve Ordinance 2014-09, Renaming Detention Drive to River Styx Road. Commissioner Milne seconded the motion. All concurred.
17. **ORDINANCE 2014-10 - AMENDING THE OFFICIAL ZONING MAP OF TOOEELE COUNTY; REZONING APPROXIMATELY 64.5 ACRES OF LAND SOUTHWEST OF BAUER ROAD AND NORTH OF THE STOCKTON BAR, FROM MU-40 TO MG-EX.** Blaine Gehring, Planner, explained this amendment. The Planning Commission recommended this rezone. Commissioner Milne moved to approve Ordinance 2014-10, Rezoning Approximately 64.5 Acres of Land Southwest of Bauer Road and North of the Stockton Bar, From MU-40 to MG-EX. Commissioner Hurst seconded the motion. All concurred.
18. **AGREEMENT FOR SUBDIVISION IMPROVEMENTS WITH SADDLEBACK PASTURES, LC FOR THE "PASTURES AT SADDLEBACK P.U.D. PLAT 2" SUBDIVISION.** Blaine Gehring, Planner, stated this is a 43 lot subdivision. There will be a third connecting road which will help with fire protection. Commissioner Hurst moved to approve the Agreement for Subdivision Improvements with Saddleback Pastures, LC for the "Pastures at Saddleback PUD Plat 2" Subdivision. Commissioner Milne seconded the motion. All concurred.
19. **ADDED AS AN EMERGENCY ITEM - LAKEVIEW ROAD PROJECT.** Commissioner Hurst moved to add this item to the agenda. Commissioner Milne seconded the motion. All concurred.
20. **LAKEVIEW ROAD PROJECT CHANGES.** Rod Thompson, Road Supervisor, spoke in regards to a contract with Kilgore awarded in Stansbury Park called Lakeview Road Project. The Engineer's original projected cost of \$250,000 was high. The bids came in from Kilgore at \$172,870. This gave the County the opportunity to put a 2" overlay on the cul-de-sacs in the same area, as well as replace an existing waterway for a total of \$52,072. With this additional work they will still be within their \$250,000 budget. Commissioner Hurst moved to approve the additional funding to complete the cul-de-sacs and this additional project and still stay within the \$250,000 budget. Commissioner Milne seconded the motion. All concurred.
20. **CONTRACT REVIEW.** A) 02-05-08- Lease Agreement between Grantsville Soil Conservation District and Tooele County; B) 91-10-06- Agreement for Join Fuel Station between Tooele County, Tooele City and the Tooele County School District; C) 92-11-14- Interlocal Cooperation Agreement between Tooele County, Wendover City,

Grantsville City, Ophir Town, Rush Valley Town, Stockton Town, Tooele City and Vernon Town for Solid Waste Disposal; D) 93-06-04- Interlocal Agreement for Solid Waste Collection between Town of Vernon and Tooele County; E) 93-07-09- Interlocal Agreement for Solid Waste Collection between Town of Ophir and Tooele County; F) 93-07-10- Interlocal Agreement for Solid Waste Collection between Town of Rush Valley and Tooele County; G) 95-09-14- Agreement between Tooele County, Tooele City and Tooele County Emergency Management for the use of 800 MHz Frequency; H) 98-06-06- Annual Fire Season Memorandum of Understanding/Annual Operating Plan between BLM and local Municipalities; J) 09-06-02- Local Program Agreement for the Provision of On-Site Employment Counselor and Eligibility Specialist with the Central Region Department of Workforce Services and Tooele County Relief Services - Amendment #1 will all be reviewed August, 2015.

21. **BOARD OPENINGS.** A) South Rim Special Service District - 3 Positions - Open until August 4, 2014.

22. **PUBLIC CONCERNS.** Robert Frank, Lake Point, was concerned with the Saddleback Development in Lake Point. Some of the lots are only ½ acre, rather than one acre.

Joyce Hogan, had a question on the SSBG grant that Auditor Jensen discussed. Can anyone get funds from this grant or is it set in stone? Those listed are the ones money has been given to historically. She complimented Rod Thompson and the Road crew for the professional manner they showed when putting chip seal on the roads in South Rim.

Treasurer Walker read a letter voicing his concerns over the County's "lack of internal controls over finances within Tooele County".

August 5, 2014

This letter is to voice my concerns about the lack of internal controls over finances within Tooele County.

### **Summary**

I have concerns center around three major themes: lack of policies and procedures, lack of oversight, and responsibility over internal controls. I believe that Tooele County has insufficient formal policies and procedures over financial matters. For the few policies that are in place, there is no tangible oversight or monitoring of those processes. By state law, the County Commission is responsible to ensure compliance with policies, statutes and ordinances. An effective control environment not only monitors compliance with established rules, but outlines appropriate consequences to those who break them. Commissioners, you must demonstrate a commitment to an effective internal control environment that will protect taxpayer dollars, increase efficiency and ensure the public trust.

1 of 3

### **Lack of Policies over Financial Processes**

The County has a only a few policies that have been adopted into the General Provisions of the County Code (i.e. purchasing policy). However, there are numerous financial policies referenced in the independent audit reports that are not part of the County Code or available to the public anywhere else. Without written policies, the County cannot require or measure compliance with those policies. Also, policies often need procedural guidance documents that provide fowls and basic instructions on how to perform the actions necessary to comply with the policy. Other financial areas have no policy at all, but should. A complete review of all of our financial processes should be conducted to identify what policies are needed and then those policies need to be created and adopted as part of the County Code.

### **Lack of Oversight**

The most recent Independent Audit Report documents a continuing failure to comply with accounting standards, state laws, and legal requirements. From 2009-2012, the County has had an average of 12 audit adjusting entries, which are incomplete or incorrect accounting entries identified during the audit. In 2013 under the keen eye of a new independent auditor there were a staggering 62 adjustments across 13 funds totaling \$21,312,518. Also since 2009, the County has had an average of 5, with the high of 10, instances of non-compliance with statutory requirements identified by the independent auditors. Just this summer there has been several concerns voiced by citizens about violations of the purchasing policy and of course the unauthorized booking of over \$6.5M of internal loans from 2009-2012 that violated state code. And then just this week we discover that 27 checks totaling \$84,402.72 were issued to pay for expenses related to the County Fair using TRT funds, which was not authorized or allowable by statute. All of these violations have been brought to your attention in public meetings and nothing has been done to address them. These violations were not discovered or communicated through a systematic testing of compliance by the County. They were discovered by individuals who have no statutory responsibility to find them. This is proof that the County lacks an effective internal control environment.

### **Responsibility over Internal Controls**

Many control deficiencies have been discovered and documented by the independent auditors, however, according to their governing standards, they are not responsible to be our control, or even give an opinion on the effectiveness of our controls. In their reports they state, "**We do not provide an opinion on the effectiveness of the entity's internal control or on compliance**" and "**the management of Tooele County is responsible for establishing and maintaining effective internal controls**". Likewise the independent auditors have no responsibility to look for or detect fraud. That duty also belongs to management.

Utah State Code 17-19a-206 states that it is the responsibility of the Commission to direct the County Auditor to test the "**adequacy of financial controls to safeguard public funds; and management and staff adherence to statute, ordinance and policies**" among other things. It also indicates that the County Auditor cannot audit his own work. Therefore, since the independent auditors cannot be relied upon to test the internal controls over the County Auditor, nor can the County Auditor test himself, **YOU** must provide the internal controls over all of the critical functions of the County Auditor.

Last year with the creation of the Audit Committee in 2013, you enlisted the aid of those committee members to act as an independent point of contact and overseers of investigations of financial rule breaking. This summer, on behalf of myself and others, I approached the Chairman of this committee with concerns about violations of policy and statute. He noted that the committee didn't have the time or resources to look into it and referred me to the Commissioners and County Auditor or the State Auditor. So clearly, this body is as unwilling to address these violations as are you.

### **What will it take before you take action?**

With the list of violations or potential violations referenced above, I wonder how many more violations will occur before you decide to act. Will it take another financial crisis similar to the one we suffered in 2012 and 2013? Will it be the discovery that funds have been embezzled from the County coffers? How much would have to be stolen to get you to act; \$1,000, \$10,000, \$100,000? Whatever that number is, I wonder if it has already happened, but since nobody is looking, we just don't know it yet. Don't wait a minute longer, start action today to honestly identify our weaknesses, discover the right solutions, and implement them as soon as possible. Don't leave it for the next Commission, fix it now.

### **Suggestions on the way forward**

As it is clear that those with responsibility over internal controls lack the knowledge or ability to fix our broken system, I strongly recommend that you contract with a professional auditor to guide you through the process of a complete risk assessment and then help create appropriate and comprehensive financial policies in conjunction with a fraud mitigation program. This program must enact reasonable but substantial consequences for violations of financial policies. You must be willing to enforce consequences for violating the rules, or else the County will continue to be at risk of financial crisis and susceptible to fraud.

Once that is complete, I recommend that you hire an. Internal Auditor to perform the internal audit function on a permanent basis. This Internal Auditor must report directly to the commission or audit committee, perform systematic internal audits of financial and non-financial processes and independently investigate any and all accusations of violations of policy, ordinance or statute.

This recommendation is not the only way to solve this problem. There are other methods that could achieve the same end. But I believe that when you are critical, you should also be helpful in providing practical and reasonable solution to address your concern. I don't care how you achieve that end, but you must achieve it in order to secure taxpayer dollars and restore the public trust.

Sincerely,

Jeremy Walker  
Tooele County Treasurer


Myron Bateman asked the Commission to be conscious of any changes that could be reversed with the new Commission.

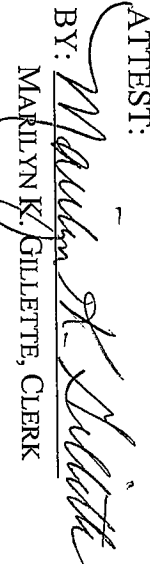
Chris Ivester, TRT board, asked how much money was used for the County Fair from the TRT board? Those numbers haven't been confirmed yet.

Raymond Dixon, over 40% of the Demolition Derby cars were from outside of Tooele County. He asked why it was illegal to use TRT money for the County Fair when \$400,000 was used for Country Explosion with the County getting no return. Is Country Explosion going to pay for the damage at the Deseret Peak Complex?

23. **ADJOURNMENT.** Commissioner Hurst moved to adjourn the meeting at 8:43 p.m. Commissioner Milne seconded the motion. All concurred.

THE FOREGOING MINUTES ARE HEREBY APPROVED:

BY:   
J. BRUCE CLEGG, CHAIRMAN

ATTEST:  
BY:   
MARILYN K. GILLETTE, CLERK

